

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
Plaintiff)	C.A. No. 04-10696-RCL
)	
v.)	ANSWER TO COMPLAINT FOR
)	FORFEITURE AND JURY DEMAND
\$78,990.00 UNITED STATES)	
CURRENCY,)	
Defendant.)	
)	
HIRAM RODRIGUEZ,)	
Claimant.)	
)	

Now comes the Claimant, Hiram Rodriguez, in the above-captioned case, for his claim to the defendant United States Currency, and answers the complaint on file herein, admits, denies, and alleges as follows:

1. Answering Paragraph 1 of the Complaint, claimant admits the allegations contained therein.
2. Answering Paragraph 2 of the Complaint, claimant has no knowledge as to its truth or falsity.
3. Answering Paragraph 3 of the Complaint, claimant denies the allegations contained therein, but states that the money was seized from an automobile registered to the claimant in which the two named individuals were passengers.
4. Answering Paragraph 4 of the Complaint, claimant denies the allegations contained therein.
5. Answering Paragraph 5 of the Complaint, claimant denies the allegations contained therein, and states that the monies are unrelated to any drug transaction. In fact, no drugs were

found in the automobile at the time of the stop.

**FOR A SECOND, SEPARATE, AND FURTHER ANSWER AND
FIRST AFFIRMATIVE DEFENSE, THIS ANSWERING CLAIMANT ALLEGES:**

6. The Complaint fails to state a claim against the defendant United States Currency upon which relief can be granted.

**FOR A THIRD, SEPARATE, AND FURTHER ANSWER AND
SECOND AFFIRMATIVE DEFENSE, THIS ANSWERING CLAIMANT ALLEGES:**

7. Forfeiture is barred under the Appropriations Clause to the United States Constitution (Article I, §9, Cl. 7), because the forfeiture statutes, 21 U.S.C. §881(a)(6) and 18 U.S.C. §981(a)(1)(A) & (C), enable the Department of Justice Asset Forfeiture Fund to bypass the United States Treasury and to become self-funding.

**FOR A FOURTH, SEPARATE, AND FURTHER ANSWER AND
THIRD AFFIRMATIVE DEFENSE, THIS ANSWERING CLAIMANT ALLEGES:**

8. This Court lacks jurisdiction over the subject matter.

**FOR A FIFTH, SEPARATE, AND FURTHER ANSWER AND
FOURTH AFFIRMATIVE DEFENSE, THIS ANSWERING CLAIMANT ALLEGES:**

9. The defendant United States Currency is not subject to forfeiture under 21 U.S.C. §881(a)(6) & (7) and 18 U.S.C. §981(a)(1)(A) & (C) because all evidence seized was obtained in violation of the Fourth Amendment and thus there is not probable cause to seize the defendant property for forfeiture.

**FOR A SIXTH, SEPARATE, AND FURTHER ANSWER AND
FIFTH AFFIRMATIVE DEFENSE, THIS ANSWERING CLAIMANT ALLEGES:**

10. Forfeiture is barred by the Tenth Amendment to the United States Constitution.

**FOR A SEVENTH, SEPARATE, AND FURTHER ANSWER AND
SIXTH AFFIRMATIVE DEFENSE, THIS ANSWERING CLAIMANT ALLEGES:**

11. Forfeiture is barred under the Doctrine of Public Authority.

FOR AN EIGHTH, SEPARATE, AND FURTHER ANSWER AND SEVENTH AFFIRMATIVE DEFENSE, THIS ANSWERING CLAIMANT ALLEGES:

12. Forfeiture is barred by the Commerce Clause because all of the activity that allegedly subjects the defendant United States Currency to forfeiture was exclusively intra-state.

WHEREFORE, this answering claimant respectfully prays:

- (1) That plaintiff, United States of American, take nothing by its complaint;
- (2) That the Court rule on all legal issues in this pleading when raised by claimant by proper motion and issue its findings of fact and conclusions of law;
- (3) That the Court award claimant reasonable costs and attorney's fees pursuant to the Comprehensive Asset Forfeiture Reform Act (28 U.S.C. §2465(b)(1)(A)) and the Local Rules of this Court;
- (4) For such other and further relief as this Court deems just and proper.

Claimant demands trial by jury.

Respectfully submitted,
The Defendant United States Currency
and its Claimant,
By their attorney,

//S//Stephen Hrones
Stephen Hrones (BBO No. 242860)
HRONES & GARRITY
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CERTIFICATE OF SERVICE

I, Stephen Hrones, hereby certify that on this 10th day of June, 2004, I served a true and correct copy of the foregoing ANSWER TO COMPLAINT FOR FORFEITURE AND JURY DEMAND, by U.S. First-Class Mail, postage prepaid, as follows: Shelby D Wright, AUSA, United States Attys Offc, Moakley United States Cths, 9thFL, 1 Courthouse Way, Boston, MA 02110.

//Stephen Hrones
Stephen Hrones